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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,594	02/13/2004	Karen Lee a.k.a. Kerri L. Marak		4955

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EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/777,594	Applicant(s) MARAK, KAREN LEE A.K.A. KERRI L.	
	Examiner Anthony Stashick	Art Unit 3728	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


Anthony Stashick
Primary Examiner
Art Unit: 3728

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are unpersuasive. Applicant argues that none of Stritter, Thatcher or Strothier disclose the combination of the safety pin attachment structure detachably attached to a loop. Applicant is correct in this assessment as none of the references alone disclose the claimed limitation. However, when taken together, the teaching of the references clearly disclose a safety pin attachment used to connect a strap to apparel, i.e. a shoe, through a loop on the apparel. It appears applicant is arguing the reference individually rather than what the references as a whole teach on of ordinary skill in the art. Stritter teaches that a shoe sole base has a plurality of strap attachment loops to which shoe straps are attached. Thatcher clearly shows the detachably attachable attachment end of a strap going through a loop on a sole, i.e. apparel, to attach the strap to the sole and the sole to a user's foot.. . Strother teaches the use of a safety pin to removably attach the end of a strap to apparel. Therefore, the references, when taken as a whole, teach attaching detachable straps through loops on a sole base as claimed. Therefore, a prima facie case of obviousness has been established and the rejections of the claims will not be withdrawn. With respect to the rejections involving Vlas, Berg and Kelly, since it has been established that the Stritter, Thatcher and Strothier combination supports a prima facie case of obviousness, as there is no deficiency that needs to be corrected by the latter references. With respect to applicant arguments directed to the interview summary and the content within it, Mr. Kroboth argued in the interview that none of the references disclose the loops on the side of the sole plate, even though this limitation is not present in the claims. The examiner merely stated that other references of record (and not applied) teach this and therefore would "read on" that limitation if it was added to the claims. It appears that on page 6, last paragraph bridging page 7 of the amendment filed August 21, 2006, Mr. Kroboth continues to argue proposed limitations that are not present in the claims of record. Therefore, since the limitation that the loops are on the sides of the sole base is not present in any of the claims of record, the comment with respect to Gallaway was directed to claim language proposed by Mr. Kroboth and was proper at the time the language was proposed. .



ANTHONY D. STASHICK
PRIMARY EXAMINER